

REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested. Claims 1, 7, and 10 are amended, and claims 1-15 are pending in the application.

Claims 3-6, 9, and 13-15 stand rejected under 35 U.S.C. 112, second paragraph as containing a trademark or trade name. This rejection is respectfully traversed.

Recitation of industry standards such as "InfiniBand™" in the claims has been deemed acceptable by the USPTO. For example, the attached Appendix is a printout from the USPTO website that lists 104 issued patents reciting "InfiniBand" within their claims.

Further, Section 2173.05(u) of the MPEP (Rev. 2, May 2004) explicitly states that "[t]he presence of a trademark or trade name in a claim is not, *per se*, improper under 35 U.S.C. 112, second paragraph" and cites *Ex parte Simpson* only for the instance where a trademark is used in a claim to identify or describe a particular material or product. See *Ex parte Simpson*, 218 1020, 1021-22 (Bd. Pat. App. & Inter. 1992) (claim scope uncertain as to material which forms the "Hypalon" membrane: question as to how much chlorosulphonated polythene must be present before infringement occurs). The Examiner's assertion that the trademark is used to identify an InfiniBand™ network is inaccurate: the claims specify configuring a device to perform communication operations with the InfiniBand™ network protocol.

Hence, the claims specify configuring operations to operate with a network configured according to a prescribed specification identified as InfiniBand™: infringement would be determined based on whether the claimed operations had a configuration that would be operable when connected to a destination configured to operate according to the InfiniBand™ protocol (i.e., "an InfiniBand™ network"). Consequently, *Ex parte Simpson* is distinguishable because the claims do not use the trademark to attempt to identify a particular material or product, but rather use the trademark to specify the source of the protocol used by a destination in

communication with the claimed computing node.

Moreover, the subject claims do not claim the protocol referred to as InfiniBand™ per se, but rather specify communication operations according to the InfiniBand™ protocol. One having ordinary skill in the art would appreciate that the InfiniBand™ protocol specifies a logical sequence of events that are to occur in order to reach a certain result.

Further, one skilled in the art would appreciate that the reference to the industry standards in the specification and claims refers to the industry standards as of the July 16, 2001 filing date of the application.

Hence, one skilled in the art would recognize that the claims should be interpreted as performing operations or functions consistent with the industry standard in effect as of the filing date of the application. Any subsequent changes in the standard are not relevant, since (1) they are not related to the claimed function; (2) they are consistent with the industry standard in effect as of the filing date; or (3) they are not within the scope of the invention to the extent that the subsequent changes are inconsistent or supersede the industry standard in effect as of the filing date of the application.

Further, the MPEP not only permits use of trademarks having definite meanings in patent applications, but requires that the proprietary nature of the marks be respected (see, e.g., MPEP §608.01(v) at page 600-88 (Rev. 2, May 2004)).

For these and other reasons, the §112, second paragraph rejection should be withdrawn.

Claims 1, 7 and 10-12 stand rejected under 35 USC 103 in view of US Patent No. 6,643,269 to Fan. Claims 1, 7 and 10 have been amended to define the invention more clearly and thus, obviate the rejection. In particular, each of the independent claims specify that each data packet has a header with content, and each of the network switches are configured to switch each of the data packets based on a corresponding switching tag that is added to a start of the corresponding data packet, without altering the content of the header. Thus, as shown in

Fig. 3B of the specification, the tag 57 is added to the front of the header, such as the conventional header 40.

Fan neither discloses nor suggests the claimed feature of configuring the network switches to switch each of the data packets based on a corresponding switching tag added to a start of the corresponding data packet, without altering the content of the header as claimed. Rather, Fan teaches away from this claimed feature by explicitly specifying that "the long addresses in the packet header are *replaced* by the corresponding short addresses, and the address type (long or short) is identified in the header" (column 6, lines 49-52); hence, "the packet with the shortened header is then forwarded to the destination node within the virtual address using the short address" (col. 6, lines 55-57).

Thus, each of the independent claims, however, do *not* specify replacing existing address fields as in Fan, but rather specify *adding the switching tag* (having the selected size based on the number of detected network nodes) *to start of the existing data packet*.

For these and other reasons, this §103 rejection should be withdrawn.

It is believed the dependent claims are allowable in view of the foregoing.

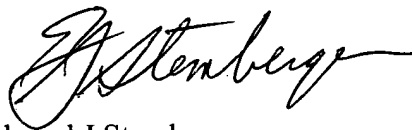
In view of the above, it is believed this application is in condition for allowance, and such a Notice is respectfully solicited.

ACHARYA — Application No. 09/905,067

To the extent necessary, Applicant petitions for an extension of time under 37 C.F.R. 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including any missing or insufficient fees under 37 C.F.R. 1.17(a), to Deposit Account No. 50-0687, under Order No. 95-512, and please credit any excess fees to such deposit account.

Respectfully submitted,

Manelli Denison & Selter, PLLC

A handwritten signature in black ink, appearing to read "E. Stemberger", written in a cursive style.

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Appendix - 09/905,067

USPTO PATENT FULL-TEXT AND IMAGE DATABASE

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ACLM/infiniband

- | PAT.
NO. | Title |
|--------------|--|
| 1 7,185,025 | T Subnet replicated database elements |
| 2 7,184,411 | T Switch-management agent trap scheme in an infiniband-architecture switch |
| 3 7,181,578 | T Method and apparatus for efficient scalable storage management |
| 4 7,180,862 | T Apparatus and method for virtual output queue feedback |
| 5 7,179,096 | T First protocol to second protocol adapter |
| 6 7,174,422 | T Data storage device with two-tier raid control circuitry |
| 7 7,171,495 | T System and method for implementing virtual adapters and virtual interfaces in a network system |
| 8 7,159,010 | T Network abstraction of input/output devices |
| 9 7,155,537 | T Infiniband isolation bridge merged with architecture of an infiniband translation bridge |
| 10 7,149,817 | T Infiniband TM work queue to TCP/IP translation |
| 11 7,149,221 | T Apparatus and methods for increasing bandwidth in an infiniband switch |
| 12 7,146,484 | T Method and apparatus for caching storage system |
| 13 7,146,448 | T Apparatus and method for adopting an orphan I/O port in a redundant storage controller |
| 14 7,142,540 | T Method and apparatus for zero-copy receive buffer management |
| 15 7,139,288 | T Protocol-independent packet delineation for backplane architecture |
| 16 7,138,733 | T Redundant data and power infrastructure for modular server components in a rack |
| 17 7,133,943 | T Method and apparatus for implementing receive queue for packet-based communications |
| 18 7,133,405 | T IP datagram over multiple queue pairs |